

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

HEATHER R. ERES, individually,
as Personal Representative of the Estate
of KEVIN D. BRYANT, deceased,
and as assignee of ELI VILLAREAL
a/k/a ELI VILLAREAL ALVAREZ,

Plaintiff,

v.

Case No. 8:17-cv-2354-T-60SPF

PROGRESSIVE AMERICAN
INSURANCE COMPANY,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on consideration of the report and recommendation of Sean P. Flynn, United States Magistrate Judge, entered on January 9, 2020. (Doc. 125). Judge Flynn recommends that “Plaintiff’s Amended Motion for Partial Summary Judgment” (Doc. 110) be denied, and “Progressive American Insurance Company’s Amended Motion for Summary Judgment” (Doc. 114) be granted. On January 23, 2020, Plaintiff Heather R. Eres filed an objection to the report and recommendation. (Doc. 126). Defendant Progressive American Insurance Company filed a response to the objection on February 6, 2020. (Doc. 128). The Court denied Plaintiff’s request to file a reply. (Doc. 131).

After conducting a careful and complete review of the findings and

recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Castro Bobadilla v. Reno*, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), *aff'd*, 28 F.3d 116 (11th Cir. 1994) (table).

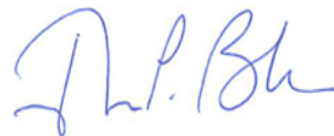
Upon due consideration of the record, including Judge Flynn's report and recommendation, as well as Plaintiff's objection thereto and Defendant's response to the objection, the Court overrules the objection and adopts the report and recommendation. The Court agrees with Judge Flynn's detailed and well-reasoned factual findings and legal conclusions. The report and recommendation thoughtfully addresses the issues presented, and the objection does not provide a basis for rejecting the report and recommendation. Consequently, "Plaintiff's Amended Motion for Partial Summary Judgment" is denied, and "Progressive American Insurance Company's Amended Motion for Summary Judgment" is granted.

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) The report and recommendation (Doc. 125) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) “Plaintiff’s Amended Motion for Partial Summary Judgment” (Doc. 110) is hereby **DENIED**.
- (3) “Progressive American Insurance Company’s Amended Motion for Summary Judgment” (Doc. 114) is hereby **GRANTED**.
- (4) The Clerk is directed to enter judgment in favor of Defendant Progressive American Insurance Company, and against Plaintiff Heather Eres.
- (5) The Clerk is further directed to terminate any pending motions and deadlines, and thereafter close this case.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 14th day of February, 2020.



TOM BARBER
UNITED STATES DISTRICT JUDGE